

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

5:10cv28

CHRISTOPHER ISLAR, OPUS #0638076

Plaintiff,

v.

SGT. HICKS and CORRECTIONAL OFFICERS

CAPUTO, PENNELL, BARKER, and CURTIS,

Defendants.

ORDER

THIS MATTER is before the Court on its own motion to determine whether summonses should be reissued in this case.

In the complaint, Plaintiff Christopher Islar, a prisoner at Alexander County's Correctional Facility, alleges that several of the correctional officers employed at the prison violated his right to be free from cruel and unusual punishment, as protected by the Eighth and Fourteenth Amendments of the United States Constitution.

Plaintiff filed his complaint on March 4, 2010. He also filed a motion to proceed *in forma pauperis* on the same day. Summonses for all Defendants were issued by the Clerk's Office on March 29, 2010. However, the motion to proceed *in forma pauperis* was still pending at that time. Over one hundred twenty days have elapsed since the issuance of the summonses in this case.

Normally, a plaintiff has 120 days in which to serve summonses upon the defendants in his case. If the plaintiff fails to complete service within this time, his case is subject to dismissal. Fed. R. Civ. P. 4(m). However, the Federal Rules of Civil Procedure also provide that if a defendant is not served within 120 days after the complaint is filed, the Court must extend the time for service if the plaintiff shows good cause for such failure. Id. In the present case, the Court finds that good

cause exists for extending the time for service of summons.

IT IS, THEREFORE, ORDERED that the Clerk of this Court shall reissue the summonses against the Defendants in this case. **IT IS FURTHER ORDERED** that the attorney for the Plaintiff shall complete service of process on the Defendants within 30 days after re-issuance of the summons and file proof of service herein.

Signed: August 4, 2010

A handwritten signature in black ink, reading "Richard L. Voorhees", written over a horizontal line.

Richard L. Voorhees
United States District Judge

